

1
2
3
4
5
6 UNITED STATES DISTRICT COURT
7 DISTRICT OF NEVADA

8 * * *

9 DAMIEN REESE, Case No. 2:19-cv-01267-RFB-DJA
10 Petitioner,
11 v.
12 JAMES DZURENDA, et al.,
13 Respondents.
ORDER

14 Petitioner has submitted a *pro se* petition for writ of habeas corpus, pursuant to
15 28 U.S.C. § 2254 (ECF No. 1-1). However, petitioner has submitted an incomplete
16 application to proceed *in forma pauperis*. He has failed to include a signed financial
17 certificate or inmate account statements. Accordingly, this matter has not been properly
18 commenced. 28 U.S.C. § 1915(a)(2) and Local Rule LSR1-2.

19 Thus, the present action will be dismissed without prejudice to the filing of a new
20 petition in a new action with either the \$5.00 filing fee or a completed application to
21 proceed *in forma pauperis* on the proper form with both an inmate account statement for
22 the past six months and a properly executed financial certificate.

23 It does not appear from the papers presented that a dismissal without prejudice
24 will materially affect a later analysis of any timeliness issue with regard to a new action
25 filed in a timely manner after petitioner has exhausted all available state remedies.
26 Petitioner at all times remains responsible for properly exhausting his claims, for
27 calculating the running of the federal limitation period as applied to his case, and for
28 properly commencing a timely-filed federal habeas action.

1 **IT IS THEREFORE ORDERED** that this action is **DISMISSED** without prejudice
2 to the filing of a new petition in a new action with either a properly completed application
3 form to proceed *in forma pauperis* or the \$5.00 filing fee.

4 **IT IS FURTHER ORDERED** that a certificate of appealability is **DENIED**, as
5 jurists of reason would not find the court's dismissal of this improperly commenced
6 action without prejudice to be debatable or incorrect.

7 **IT IS FURTHER ORDERED** that the Clerk shall send petitioner two copies each
8 of an application form to proceed *in forma pauperis* for incarcerated persons and a
9 noncapital Section 2254 habeas petition form, one copy of the instructions for each
10 form, and a copy of the papers that he submitted in this action.

11 **IT IS FURTHER ORDERED** that the Clerk shall **ENTER JUDGMENT** accordingly
12 and close this case.

13 DATED: August 19, 2019.



14
15 RICHARD F. BOULWARE, II
16 UNITED STATES DISTRICT JUDGE
17
18
19
20
21
22
23
24
25
26
27
28